

**ANDOVER BOARD OF HEALTH**

**Minutes**

**July 13, 2009, 6 P.M.**

**1st Floor Conference Room**

**36 Bartlet Street**

The Board of Health meeting was called to order at 6:04 p.m. Present were Ms. Candace B. Martin, Chairman, Ms. Margaret N. Kruse, Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Dr. Donald H. Miller, Vice-Chairman, was not present due to a scheduling conflict.

**I. Approval of Minutes**

- **Regular Meeting of March 9, 2009** **TABLE**
- **Executive Session of March 9, 2009**
- **Regular Meeting of April 13, 2009**
- **Regular Meeting of May 11, 2009**
- **Regular Meeting of June 8, 2009**

*Ms. Martin stated that the Minutes of the March, April, and May meetings will be tabled until the next scheduled Board of Health Meeting.*

**II. Appointments & Hearings**

- **6:00 p.m. – David Kiu for Peking Garden: Show Cause to Revoke, Suspend, or Amend the Food Service Permit**– Present were Mr. David Kiu, owner, and Stanley Chamoy, Mr. Kiu's Attorney. Mr. Carbone explained to the Board that the Ansel Fire Suppression System had discharged and the Fire Department was notified. After the Heath Inspector completed her inspection, she found a number of problems that resulted in an ORDER to close the restaurant immediately. Problems included uncovered food and improper hot and cold temperatures. They were allowed to reopen after the repair of the Ansel system and cleanup with the condition that Mr. Kiu appear before the Board of Health. Mr. Kiu explained that three out of his four employees are now Serve-Safe certified, and that he is now keeping a temperature log that is updated every two hours. The Board suggested that Mr. Kiu hire an outside inspector to do monthly inspections, and Mr. Kiu stated that he would be willing to do that, but asked if there were any inspectors that spoke Chinese because he felt that the language barrier was part of the problem. Mr. Carbone stated that he would send Mr. Kiu a list, and was sure that there were some on the list that spoke Chinese. After discussion, the Board decided on a course of action as shown in the following motion:

*Motion by Ms. Martin, seconded by Ms. Kruse to take the following actions:*

1. *At Mr. Kiu's own expense, he must hire a private inspector to conduct three monthly inspections and trainings over the next three months, with copies of the inspection reports being submitted to the Board of Health within 24 hours of completion.*
2. *Health Division staff will continue to monitor conditions and conduct inspections as needed.*
3. *The matter will be continued for six months and will be assigned to the January, 2010 agenda for a status review.*

*Unanimous approval.*

- **6 p.m. – Angelo Petrosino for Definitive Subdivision – Pine Forest Park** – Present were Mr. Petrosino, Luke Roy with O'Neill Associates, and Walt Jacobs, Attorney for Mr. Petrosino. Mr. Carbone gave some background information to the Board because this subdivision was originally before the Board in May of 2003. Last Fall there was a Court Order to remand to the Board of Health for review relating to well water issues. The plan called for the installation of private wells, but was missing pertinent information and the subdivision was subsequently denied by the Board of Health. Now the Definitive Subdivision is contingent upon the use of the North Reading water supply. Mr. Petrosino has a request out to the Town of North Reading; however, no Inter-municipal Agreement has been reached at this time. There was also an issue with a lack of a water main loop. An unfiled plan showing a proposed water main loop was presented to the Board, but the Board refused to consider it until the plan has been properly reviewed by staff. Mr. Petrosino repeatedly requested that the Board approve the Definitive Subdivision for Pine Forest Park with the condition that work does not begin until an Inter-municipal Agreement gets approved by the Towns of Reading and Andover and a water main loop plan is approved. Ms. Martin stated that having the Inter-municipal agreement in place was a prerequisite, and a Definitive Subdivision plan should not be submitted until everything has been approved.

*The Board closed the Hearing at 7:13 p.m. for discussion.*

*Motion by Ms. Kruse, seconded by Ms. Martin, to approve the Definitive Subdivision for Pine Forest Park with the following conditions:*

1. *Receipt of a new plan for a water main loop approved by the Water Department.*
2. *Permission for an Inter-municipal Agreement with the Town of North Reading.*

*The subsequent vote failed, Ms. Kruse, Aye, Ms. Martin, Nay. There were no further motions.*

- **6:45 p.m. – Salvator and Mary Santangelo for 27 Kirkland Drive – Condemnation Hearing** – Mr. Carbone explained to the Board that the Santangelos have hired an Attorney, Michael Abodeely, to represent them, and Atty. Abodeely requested a continuance so that he could review the matter fully. Mr. Carbone explained to the Board that the Santangelos have failed to comply with previous ORDERS to clean up their

property. There are now egress issues, debris, oxygen tanks in the yard, as well as unsafe front steps. Mr. Carbone had observed that a lot of the trash had been put out for trash pickup on Friday. Discussion followed and the Board decided to set strict guidelines with specific dates for cleanup of the property. If these specifics are not met, then the Board could start condemnation proceedings immediately.

*Motion by Ms. Kruse, seconded by Ms. Martin, for the following actions:*

- 1. The matter is continued to August 10, 2009, at 6:00 PM in the 1<sup>st</sup> floor conference room at Town Offices.*
- 2. All remaining rubbish shall be removed from the property by July 17, 2009.*
- 3. Signed contracts for the repair of the front walk and the brush removal shall be submitted to the Health Division Office by July 24, 2009.*
- 4. The front walkway repair and the brush removal shall be completed by August 10, 2009.*

*Unanimous approval.*

### **III. Discussion**

- **Amend the 2009 Fee Schedule for a \$25.00 Fee for Burial Permits, Effective August 1, 2009** – Mr. Carbone explained that the Supreme Judicial Court ruled that the Burial Permit fee was a legal fee, and Town Council advised that the fee can be reinstated. Mr. Carbone requested the fee be increased from \$20.00 to \$25.00.

*Motion by Ms. Martin, seconded by Ms. Kruse to reinstate the burial permit fee and to approve the 2009 fee schedule with the increase in Burial Permit fee from \$20.00 to \$25.00. Unanimous approval.*

- **Budget Impacts FY2010** – Mr. Carbone explained that the Building Department revenue is down, so a Building Inspector and the Clerk at the front desk were laid off in June. The Community Development & Planning staff is working very hard together to serve the public with the decreased staff. Recession as well as recovery in Government lags behind the general economy by one to two years. The Town Manager is working on a new budget for the Fall Town Meeting and the Department Heads will be meeting on Tuesday to begin discussions.

### **IV. Old Business**

- **Salt Shed Update** – Mr. Carbone asked to table the Salt Shed update until the next scheduled Board of Health Meeting on Monday, August 10, 2009.

- **Recycling Regulation for Condominiums** - Mr. Carbone asked to table the discussion of the Recycling Regulation for Condominiums until the next scheduled Board of Health Meeting on Monday, August 10, 2009.

#### **V. Definitive Subdivision Plans**

- **Pine Forest Park – 11 Lots** – This issue was dealt with at the Hearing earlier in the Meeting.
- **Celestial Circle – 9 Lots off Sunset Rock Road** – Daniel Koravos, Civil Engineer for the Definitive Subdivision, was present. Mr. Carbone stated that the serious issues that needed to be worked out have been addressed. Mr. Koravos addressed the drainage issue and now the water will drain down across Sunset Rock Road. A Stormwater Drainage Report has been prepared for the DEP. Also, a special permit from the Board of Health will be needed because some of the dwellings will be serviced by sewer ejector pumps. Mr. Carbone recommended approval with three conditions.

*Motion by Ms. Kruse, seconded by Ms. Martin to approve the Definitive Subdivision Plan for Celestial Circle subject to the following conditions:*

- 1. Any modification, amendment, or change to the above-cited Definitive Plan shall be submitted as a new or modified Definitive Plan in accordance with the provisions of MGL Chapter 41, Section 81U.*
- 2. Subject to Conservation Commission approval of the above dated plan by Order of Conditions or Negative Determination.*
- 3. A Special Permit from the Board of Health will be required for the pressure sewer system and must be obtained prior to the issuance of any building permits.*

*Unanimous approval.*

#### **VI. Plan Review**

##### **A. D.W.R.P. Variances/Local Upgrade Approvals (LUA) –**

- N/A

#### **VII.**

##### **Staff Reports**

##### **A. Director's Report:**

- **Appointment of Deb Rillihan as Contract Nurse** – Mr. Carbone requested that the Board appoint Deb Rillihan who is a Public Health Nurse in North Andover, as a contract nurse for the Town of Andover.

*Motion by Ms. Kruse, seconded by Ms. Martin, to appoint Deb Rillihan as Contract Nurse for the Town of Andover. Unanimous approval.*

- **Important Dates:**

- July 30 – August 6, 2009, Director's Vacation
- August 10 @ 6 p.m. – Board of Health Meeting
- September 14 @ 6 p.m. – Board of Health Meeting

**B. Nurses' Report for June, 2009** –The Nurses' report was not available.

**C. Inspectors' Reports for June, 2009** –The Inspectors' Reports were for informational purposes only.

### **VIII. Board Member Reports**

- **Request for an Update on the H1N1 Flu** –Mr. Carbone explained to the Board that once the children go back to school in the Fall, the H1N1 cases are expected to increase. Mr. Carbone will be working on getting together with the private schools in the area. Mr. Carbone attended a conference in Atlanta and the speaker from CDC stated that letting nature take its course results in a fast, large peak instead of a flattening peak for a longer period of time. However, health care services strain if there is a big spike, so a longer period of time is easier to deal with and has fewer service disruptions. There is a three month timeframe to make a vaccine, and there are questions if most people should get two shots; one for seasonal flu and one for H1N1. CDC will be issuing guidance over the next few months.
- **Main Line Creamery** - Mr. Carbone explained that the conditions there are not too bad, but there are repeat violations. Paul Clancy, owner, is only there in the mornings, and teenagers run the establishment the rest of the time. He only has a ServeSafe person available for ten to twelve hours a week, but the law requires a full-time employee to be ServeSafe certified. Mr. Carbone is anticipating that Mr. Clancy will be requesting a Variance to the Federal Food Code at the next scheduled Board of Health Meeting on Monday, August 10, 2009.

### **IX. Adjournment**

*Motion by Ms. Martin, seconded by Ms. Kruse to adjourn at 8:12 p.m. Unanimous approval.*